

VAT INCREASE & IMMOVABLE PROPERTY TRANSACTIONS

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On 1 April 2018 the rate at which VAT will be payable on supplies of certain goods and services will be increased from 14% to 15%. How does this affect immovable property transactions?

VAT is only relevant to transactions where VAT is payable on the goods or services. Where a seller of an immovable property is not a VAT vendor, the amendment to the VAT rate will not have any impact on the transaction. If a seller is a VAT vendor then the increase in the VAT rate may impact the parties to the transaction. The VAT Act No 89 of 1991 sets out rules with regard to a change in the VAT rate.

1. RESIDENTIAL AND COMMERCIAL IMMOVABLE PROPERTY SALES

- 1.1. In terms of section 67A(4) of the VAT Act, provided the purchase price of the sale of a residential immovable property is stated in a sale agreement that was signed before 1 April 2018, even though registration of transfer and payment may only take place on or after 1 April 2018, VAT will be payable at the previous rate of 14%.
- 1.2. If the date of registration of transfer of commercial immovable property to a purchaser occurs on or after 1 April 2018, VAT at the rate of 15% will be payable by the seller, irrespective of when the sale agreement was concluded. The seller will be entitled to claim the additional 1% VAT from the purchaser unless the sale agreement specifically provides otherwise.
- 1.3. If the purchaser is a VAT vendor, the purchaser will be able to recover any VAT paid to the seller as an input credit.

2. VAT ON ESTATE AGENT'S COMMISSION

- 2.1. The ordinary supply rules as set out in the VAT Act apply to the services provided by estate agents. If the estate agent is a VAT vendor then the VAT rate applicable at the time of supply will apply to the commission payable to the estate agent by a seller.
- 2.2. According to SARS, services actually performed before 1 April 2018 will attract VAT at a rate of 14%, even if invoicing or payment occur after that date. Any services actually performed on or after 1 April 2018 will attract VAT at a rate of 15%.
- 2.3. It will therefore be necessary to peruse a sale agreement to ascertain at what point the estate agent's services have actually been performed – typically this is when a sale becomes conclusive.

3. RENTAL AGREEMENTS

The VAT rate for rental agreements is determined according to the earlier of the date payment is due, or when it is received. Accordingly, any rental due or received before 1 April 2018 will attract VAT at a rate of 14% and any rental due or received on or after 1 April 2018 will attract VAT at a rate of 15%.

For professional advice and assistance with regard to immovable property transactions please contact Stuart Fourie (stuart@fouriestott.co.za) or Vicky Stott (vicky@fouriestott.co.za).